APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,406	01/22/2002	Harlan T. Beverly	ITL.0702US	5109

7590 05/02/2005	**EXAMINER**
Timothy N. Trop	TAYLOR, NICHOLAS R
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ART UNIT	PAPER NUMBER
2141	

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DATE MAILED: 05/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	10/054,406	BEVERLY, HARLAN T.
	Examiner	Art Unit	
	Nicholas R. Taylor	2141	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _22 January 2002_.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-32_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _1-32_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _22 January 2002_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All b)☐ Some * c)☐ None of:
    1.☐ Certified copies of the priority documents have been received.
    2.☐ Certified copies of the priority documents have been received in Application No. _____.
    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1-32 have been examined and are rejected.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

3.   Claims 31 and 32 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention. The claims refer to using "the data size" where it is

unclear to which data the language is specifically referring.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b),
> by another filed in the United States before the invention by the applicant for patent or (2) a
> patent granted on an application for patent by another filed in the United States before the
> invention by the applicant for patent, except that an international application filed under the treaty
> defined in section 351(a) shall have the effects for purposes of this subsection of an application
> filed in the United States only if the international application designated the United States and
> was published under Article 21(2) of such treaty in the English language.

5.   Claims 1-2, 4-9, 11-12, 14-19, and 21-29 are rejected under 35 U.S.C. 102(e) as

being anticipated by Leung (US Patent 6,490,280.)

6.   As per claims 1, 11, and 21, Leung teaches a method comprising:

identifying a first data element to be removed from a data stream including other

data elements; (Leung, column 7, lines 12-19)

writing the other elements into buffers and reading those elements from the

buffers; and preventing the first data element from being read from any of said buffers

(Leung, column 8, lines 50-65; column 9, line 65 to column 10, line 14; column 10, lines

48-65.)

7.   As per claims 2, 12, and 23, Leung teaches the system further wherein

identifying a first data element to be removed includes identifying the location of virtual

local area network tags within the data stream (Leung, column 7, lines 12-19.)

8.   As per claims 4, 14, and 25, Leung teaches the system further wherein

preventing the first data element from being read from any of said buffers includes

writing the first data element into a buffer and then overwriting said first data element in

said buffer with one of said other data elements (Leung, column 9 line 65 to column 10,

line 14, and column 10 lines 47-65, wherein the frame length is decreased, so that

unwanted data elements are not copied onward to the FIFO and are left to be

overwritten.)

9.   As per claims 5, 15, and 26, Leung teaches the system further wherein writing the other elements into buffers includes writing the other elements into buffers having a size comparable to the size of said first data element (Leung, column 9, lines 6-38.)

10.   As per claims 6, 16, and 27, Leung teaches the system further including producing a contiguous uninterrupted output data stream with said first data element removed (Leung, column 9 line 65 to column 10, line 14.)

11.   As per claims 7, 17, and 28, Leung teaches the system further including receiving a data stream including said first data element and other data elements and distributing said other data elements to a plurality of buffers (Leung, column 9 line 65 to column 10, line 14.)

12.   As per claims 8, 18, and 29, Leung teaches the system further including reading said data elements out of said buffers through a multiplexer to generate a contiguous data stream (Leung, column 9 line 65 to column 10, line 14.)

13.   As per claims 9 and 19, Leung teaches the system further including receiving a data unit that includes two data elements, storing one of said two data elements in a first buffer and the other of said two data elements in a second buffer (Leung, column 9, lines 6-38, wherein multiple data elements of a frame are spread across multiple buffers.)

14.   As per claim 22, Leung teaches the system further wherein said system is an

Ethernet adapter (Leung, column 3, lines 35-38.)

15.   As per claim 24, Leung teaches the system further wherein said control prevents

the first data element from being read from any of said buffers (Leung, column 10, lines

48-65.)

Claim Rejections - 35 USC § 103

16.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

17.   Claims 3, 10, 13, 20, and 30 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Leung (US Patent 6,490,280) and Morrissey et al. (US Patent

5,553,302.)

18.   As per claims 3 and 13, Leung teaches the above yet fails to teach wherein

preventing the first data element from being read from any of said buffers includes

preventing said first data element from being written to any of said buffers.

Morrissey teaches a frame transfer system that prevents specified data elements

from being written to buffers in providing a continuous data stream (Morrissey, column

7, lines 4-17.) It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have combined Leung and Morrissey to provide the write prevention of Morrissey in the system of Leung, because doing so would enable enhanced system throughput of continuous data streams (Morrissey, column 1, lines 27-30.)

19.   As per claims 10, 20, and 30, Leung teaches the above yet fails to teach including outputting one of said two data elements through a first multiplexer and outputting the other of said data elements through a second multiplexer.

Morrissey teaches a frame transfer system that sends different data elements through first and second multiplexers (Morrissey, column 13, lines 42-49.) It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have combined Leung and Morrissey to provide the write prevention of Morrissey in the system of Leung, because doing so would enable enhanced system throughput of continuous data streams (Morrissey, column 1, lines 27-30.)

Conclusion

20.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. This includes US Patents: 6,775,283, 6,442,161, and 6,304,714. See also US PGPubs: 2002/0146026, 2004/0008740, 2004/0223501, and 2003/0221082.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Taylor whose telephone number is (571) 272-3889. The examiner can normally be reached on Monday-Friday, 8:00am to 5:30pm, with alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3718.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nicholas Taylor
Examiner
Art Unit 2141

RUPAL DHARIA
SUPERVISORY PATENT EXAMINER